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16 **UNITED STATES DISTRICT COURT**
17 **NORTHERN DISTRICT OF CALIFORNIA**

18
19 ANIKA OKJE ERDMANN-BROWNING
20 and JACQUELINE BENITEZ, individually
21 and on behalf of all others similarly situated,

22 Plaintiffs,

23 v.

24 THOMAS J. VILSACK, Secretary of the
United States Department of Agriculture, in
25 his official capacity, SHALANDA YOUNG,
Director of the United States Office of
Management and Budget, in her official
26 capacity.

27 Defendants.

28 Case No.: 4:23-cv-04678-JST

Case No.: 4:23-cv-04678-JST

CLASS ACTION

**SUPPLEMENTAL DECLARATION OF
JODIE BERGER IN SUPPORT OF
PLAINTIFFS' MOTION FOR
PRELIMINARY INJUNCTION**

Hearing date: March 14, 2024
Time: 2:00 p.m.

Action filed: September 12, 2023

DECLARATION OF JODIE BERGER

I, Jodie Berger, declare:

1. I am an attorney licensed to practice law in the State of California and am one of the attorneys for plaintiffs in this case. I have personal knowledge of the facts contained in this declaration unless indicated otherwise, and, if called as a witness, am competent to testify to those facts.

2. On January 22, 2024, I sent an email to Kyla Snow, an attorney with the Department of Justice and counsel for Defendants, inquiring about USDA's position on the issuance of benefits in April 2024 pursuant to Sec. 111(b) of the continuing resolution. Attached to this declaration and marked as Exhibit 1 is a true and correct copy of the January 16, 2024 email, with prior email trail redacted. I did not receive a response.

3. On January 31, 2024, I send Ms. Snow an email inquiring about USDA's position on the issuance of benefits in April 2024 pursuant to Sec. 111(b) of the continuing resolution and any plans to use the \$6 billion in SNAP contingency reserve funds. Attached to this declaration and marked as Exhibit 2 is a true and correct copy of the January 31, 2024 email, with prior email trail redacted. I did not receive a response.

4. On February 6, 2024, I inquired again about the Defendant's position on April benefits and use of contingency reserves. Ms. Snow replied the same date, stating to she could not provide any additional information beyond what was stated in Defendant's Motion to Dismiss brief. Attached to this declaration and marked as Exhibit 3 is a true and correct copy of the February 6, 2024 emails.

5. On February 6, 2024, Andrea Brayboy, the California Department of Social Services CalFresh and Nutrition Branch Chief, provided me with the state schedule for submitting the Electronic Benefits Transfer (EBT) issuance data files for March-June 2024. For the April 2024 issuance, the state must start the file transmission on March 22. Ms. Brayboy further stated that in the event of a Federal shutdown, FIS [the state EBT vendor] needs the EBT issuance file by Mar 19th to issue before the end of the month. Attached to this declaration and marked as Exhibit 4 is a true and correct copy of the February 6, 2024 email.

1 6. On September 14, 2023, I spoke with Cary Jeffers, Director of Product, Fidelity
 2 Information Services (FIS) about FIS's Electronic Benefit Transfer (EBT) process and timeline
 3 to issue SNAP benefits. He informed me that FIS is the largest of three EBT vendors, serving 31
 4 states, including California. Of the states using FIS as their vendor, about one-third send their
 5 benefits issuance files to FIS around the middle of the month; about one-third send their benefits
 6 issuance files on the weekend before the last week of the month; the remainder send their
 7 benefits issuance files in the last few days of the month. For the first group of states with the
 8 earliest transmission date (mid-month), that date can be pushed back, if necessary, if the state
 9 properly informs FIS.

10 7. In September 2023, when the end of the fiscal year approached without a new
 11 budget, I emailed Mr. Jeffers and asked for FIS's deadline for processing October benefits. On
 12 September 18, 2023, he responded that the FIS deadline to receive benefit issuance data was
 13 September 21. Attached to this declaration and marked as Exhibit 5 is a true and correct copy of
 14 Mr. Jeffers's September 18, 2023 email, redacted for exchanges prior to September 18.

15 8. The Office of Management and Budget (OMB) produces "CIRCULAR NO. A-11
 16 "PREPARATION, SUBMISSION, AND EXECUTION OF THE BUDGET. Section 124.1 and
 17 124.2 pertain to agency actions during a lapse of appropriations and plans in anticipation of such
 18 lapses. A true and correct copy of those sections are attached as Exhibit 6.

19 9. Historically, USDA has taken the position that, absent the passage of an annual
 20 appropriation bill or a continuing resolution and use of any available contingency reserves,
 21 SNAP operations must cease.

22 10. In 2013, USDA sent the states 6 sets of "questions and answers. USDA took the
 23 position in several of these documents that without an annual appropriations bill or a continuing
 24 resolution, and absent utilization of contingency reserves, SNAP program benefits issuances
 25 must cease. I have attached as Exhibit 7 a true and correct copy of one of these sets,
 26 "Supplemental Nutrition Assistance Program [SNAP] Lapse in Funding Questions from States –
 27 Part 2 October 3, 2013, which most explicitly conveys that position. USDA's response about
 28 what would happen if the government shutdown continued and there was a lapse in funding was

1 that “USDA would evaluate available options, seek legal determinations, and make a final
 2 decision about a course of action closer to that time.”

3 11. USDA has also issued contingency plans in the event of a lapse in appropriations
 4 in January 2018 and 2021. A true and correct copy of those plans are attached as Exhibit 8 and
 5, respectively.

6 12. USDA updated its contingency plan for 2024, which includes provisions
 7 regarding the SNAP program, in the event of a lapse of appropriation. The OMB website,
 8 <https://www.whitehouse.gov/omb/information-for-agencies/agency-contingency-plans>,
 9 identifies this plan as updated September 29, 2023. A true and correct copy of the 2024 plan is
 10 attached as Exhibit 10.

11 13. USDA prepared a “Summary of Activities to Be Continued in The Event Of A
 12 Government Shutdown” for Fiscal Year 2024. A true and correct copy of the summary is
 13 attached as Exhibit 11.

14 14. Since early August 2023, proposed class counsel has been diligently investigating
 15 the specific claims in this case when it became apparent that Congress would not enact
 16 appropriations bills before the end of Federal Fiscal Year 2022-23, reinforced when members of
 17 Congress voiced opposition to a continuing resolution each time one is proposed, including
 18 opposition to the current proposal for a third continuing resolution. Counsel have evaluated the
 19 legal issues relating to the SNAP program and the EBT issuance process, consulted hunger
 20 experts, food bank professionals and an economist.

21 15. I have been in constant communications with counsel for defendants about the
 22 status of ongoing SNAP benefits and the plaintiffs’ intent to request issuance of a preliminary
 23 injunction to preserve the status quo of continued issuance of SNAP benefits in April 2024 and
 24 subsequent months. The parties stipulated to a shortened briefing and hearing schedule, filed
 25 concurrently with the Plaintiffs’ Motions for Preliminary Injunction and Class Certification.

26 I declare under penalty of perjury, under the laws of the United States and the State of
 27 California, that the foregoing is true and correct.

28 //

1 Executed on the 29th day of February 2024, at Oakland, California.

2
3 By: 
4 Jodie Berger
5 WESTERN CENTER ON LAW AND
6 POVERTY
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EXHIBIT 1

Jodie Berger

From: Jodie Berger
Sent: Monday, January 22, 2024 1:51 PM
To: Snow, Kyla (CIV)
Subject: Erdmann: USDA on SNAP/CR

Re: the below... We still would need to know whether USDA agrees that the 3rd CR, in amending the original once (9/30/23), includes a 30 day extension of the SNAP deadline, now March 8th, pursuant to section 111(b).

Also, if we are filing under regular rules for briefing/court hearing, what Stipulation were you contemplating?

Thank you.



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EXHIBIT 2

From: [Jodie Berger](#)
To: [Snow, Kyla \(CIV\)](#)
Subject: RE: Erdmann: filings
Date: Wednesday, January 31, 2024 3:21:10 PM
Attachments: [image001.png](#)
[image002.png](#)
[image008.png](#)
[image009.png](#)
[image010.png](#)
[image003.png](#)
[image004.png](#)

Yes, we can talk after 2/6/24.

Could you also inquire whether USDA has plans to utilize the \$6B contingency reserves, and if so, how far out that will cover benefits? That will also be a factor in timing, in addition to the Section 111(b) 30 day extension.

Thank you.



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From: Snow, Kyla (CIV) <Kyla.Snow@usdoj.gov>
Sent: Wednesday, January 31, 2024 7:38 AM
To: Jodie Berger <jberger@wclp.org>
Subject: RE: Erdmann: filings

Hi Jodie,

Thanks for flagging the forthcoming amended complaint. With respect to any anticipated PI/class cert filings, we think that filing on Feb. 8 (which would be required under the local rules to set a hearing on March 14) would be extremely premature. We would be willing to discuss a stipulation to proceed on an expedited schedule if you would plan to delay filing your motions until sometime after that date. However, we think it makes sense to discuss that stipulation in more specifics after we've had a chance to review the amended complaint. Can we discuss further after Feb. 6?

Best,
Kyla

From: Jodie Berger <jberger@wclp.org>
Sent: Monday, January 29, 2024 5:35 PM
To: Snow, Kyla (CIV) <Kyla.Snow@usdoj.gov>
Subject: [EXTERNAL] Erdmann: filings

I wanted to let you know that plaintiffs intend to file a First Amended Complaint on or before February 6th. We also are looking at filing a new set of PI/Class Certification papers in February for a hearing March 14th, in the absence of assurance that the current continuing resolution covers new/existing households through April 2024 via Section 111(b).

We'd be happy to meet and confer with you on the scheduling or other matters.

Jodie



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EXHIBIT 3

From: [Snow, Kyla \(CIV\)](#)
To: [Jodie Berger](#)
Subject: RE: Erdmann: Times to talk re: briefing?
Date: Tuesday, February 6, 2024 12:43:13 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)

Hi Jodie,

I will follow up with you to discuss an appropriate schedule for briefing any anticipated motions for PI/class cert after we've been able to review your amended complaint. In the meantime, if you have a particular proposal in mind, feel free to let me know and we can assess our position.

Our motion to dismiss discusses SNAP funding, including contingency reserves and Section 111(b). At this time, I am not able to provide any additional information beyond what we've stated in our brief.

Best,
Kyla

Kyla M. Snow
Trial Attorney | U.S. Department of Justice
Civil Division | Federal Programs Branch
1100 L Street NW
Washington, D.C. 20005
Kyla.Snow@usdoj.gov
Office: (202) 514-3259
Cell: (202) 598-3561

From: Jodie Berger <jberger@wclp.org>
Sent: Tuesday, February 6, 2024 2:51 PM
To: Snow, Kyla (CIV) <Kyla.Snow@usdoj.gov>
Subject: [EXTERNAL] Erdmann: Times to talk re: briefing?

What time are you available to tomorrow to talk about the Erdmann briefing, contingency reserves and Sec. 111(b)? I'm free until 1:45 pm (10:45 EST) or after 4 (1 EST). Do those work? I may be able to miss a 3-4 pm PST meeting.

Thank you.



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EXHIBIT 4

From: [Brayboy, Andrea@DSS](#)
To: [Jodie Berger](#)
Cc: [Fernández Garcia, Alexis@DSS](#); [Yang, Kat@DSS](#)
Subject: RE: Deadline to transmit EBT benefits files?
Date: Tuesday, February 6, 2024 8:10:14 AM
Attachments: [image003.png](#)
[image004.png](#)
[image006.png](#)
[image007.png](#)
[image008.png](#)
[image009.png](#)

Good morning, Jodie.

Yes, please see our responses to your questions below.

Have a great day.

~ Andrea



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From: Jodie Berger <jberger@wclp.org>
Sent: Tuesday, February 6, 2024 8:03 AM
To: Brayboy, Andrea@DSS <Andrea.Brayboy@dss.ca.gov>; Yang, Kat@DSS <Kat.Yang@dss.ca.gov>
Cc: Fernández Garcia, Alexis@DSS <Alexis.Garcia@dss.ca.gov>
Subject: RE: Deadline to transmit EBT benefits files?

Good morning. I'm just checking in to see if you were able to respond to the below.

Thank you.



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From: Brayboy, Andrea@DSS <Andrea.Brayboy@dss.ca.gov>
Sent: Tuesday, January 30, 2024 3:30 PM
To: Jodie Berger <jberger@wclp.org>; Yang, Kat@DSS <Kat.Yang@dss.ca.gov>
Cc: Fernández Garcia, Alexis@DSS <Alexis.Garcia@dss.ca.gov>
Subject: RE: Deadline to transmit EBT benefits files?

Good afternoon, Jodie.

Confirming receipt of your questions below. We have contacted our Automation partners and will provide a response as soon as we can.

Thank you. ~Andrea

Andrea D. Brayboy, MBA
 CalFresh and Nutrition Branch Chief
 California Department of Social Services
 Email: andrea.brayboy@dss.ca.gov



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From: Jodie Berger <jberger@wclp.org>
Sent: Tuesday, January 30, 2024 3:18 PM
To: Brayboy, Andrea@DSS <Andrea.Brayboy@dss.ca.gov>; Yang, Kat@DSS <Kat.Yang@dss.ca.gov>
Cc: Fernández Garcia, Alexis@DSS <Alexis.Garcia@dss.ca.gov>
Subject: Deadline to transmit EBT benefits files?

Looking at the termination of funding under the current Continuing Resolution, and the potential lapse in funding after the March benefits:

1. Is California's regular EBT issuance file submission to FIS the 15th of the month? **No,** the 15th is not the regular EBT issuance file submission date. The table below provides details for transmission dates through the June issuance.

<i>Issuance Month</i>	<i>Transmission Dates of Monthly Files</i>
March Issuance	<ul style="list-style-type: none"> • County 19 – <u>Feb 23rd</u> • County 33 – <u>Feb 27th</u> <p style="text-align: right;">nd</p>

	All other counties – Feb 22
April Issuance	<ul style="list-style-type: none"> County 19 – <u>Mar 22nd</u> County 33 – <u>Mar 27th</u> All other counties – <u>Mar 26th</u>
May Issuance	<ul style="list-style-type: none"> County 19 – <u>Apr 19th</u> County 33 – <u>Apr 26th</u> All other counties – <u>Apr 24th</u>
June Issuance	<ul style="list-style-type: none"> County 19 – <u>May 24th</u> County 33 – <u>May 29th</u> All other counties – <u>May 23rd</u>

2. Has California obtained a date from FIS that would be the last day to receive EBT issuance files that would ensure timely issuance of benefits starting 4/1/24? In the event of a Federal shutdown, FIS needs the EBT issuance file by Mar 19th to issue before the end of the month.

- If not, has it received general information from FIS regarding deadlines to submit the files beyond the normal transmission date, other than the 9/20 deadline for issuing October benefits early? N/A

Thank you.



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EXHIBIT 5

From: [Jeffers, Cary](#)
To: [Jodie Berger](#)
Subject: RE: Draft of EBT process
Date: Monday, September 18, 2023 4:31:47 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)

FYI FNS issued a note today that states should submit their benefit issuance as is for the normal October schedule. If there are any funding changes, FNS would take care of them via the AMA system directly moving the October issuances to September.

Yes I am good with your clarifications. 1 & 2 & 3... for clarification the reason I changed "files" to issuances, is some states, including California use multiple methods to get the issuance records to us, from batch files, to Host to Host to Webservices/Rest API's.

4 is basically the same as 3

5 Expedited benefits are benefits issued for emergency so they can be for the same day as approved, same as daily benefits, except they come in the middle of the day.

- is the 21st always a deadline, or 9/21/23 is this month's deadline for 10/23, but there is some variation (such as if it's the 22nd if it's a 31 day month and shorter for February)? The deadline is different depending on the situation. For this month, since we didn't have much information from the FNS, and due to the short time period left, we set it at the 21st, however we would have preferred the 15th or earlier for decisions. States have dates that they have scheduled for sending files, for example some send on the same day each month, others set it to a period of time like the last Thursday before the end of the month, or the last day of the month.
- What are the actions that need to occur (or examples if not a set list) if funding isn't there to back up issuances posted to/against the letter of credit, to stop the redemptions? The processors would need to bring down our authorization platforms to stop transaction, which would result in declines at the retailer POS systems.
- Are daily benefits issuances different from daily issuances? No they are one and the same. (I am still working on English as a first language, and a developer by nature, so I tend to write in fragments.)

EXHIBIT 6

CIRCULAR NO. A-11

PREPARATION, SUBMISSION, AND EXECUTION OF THE BUDGET



**EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
AUGUST 2023**

SECTION 124—AGENCY OPERATIONS IN THE ABSENCE OF APPROPRIATIONS**SECTION 124—AGENCY OPERATIONS IN THE ABSENCE OF APPROPRIATIONS****Table of Contents**

- 124.1 What types of actions may my agency conduct during a lapse in appropriations?
 - (a) Background
 - (b) Policies
- 124.2 What plans should my agency make in anticipation of a lapse in appropriations?
- 124.3 When should my agency's shutdown plans be implemented?
- 124.4 How may my agency receive lapse communications updates from OMB?
- 124.5 Am I automatically apportioned obligational authority for agency operations that are authorized by law to continue in the absence of appropriations?

Summary of Changes

Reminds agencies to submit their updated lapse plans (section 124.2).

124.1 What types of actions may my agency conduct during a lapse in appropriations?**(a) Background.**

The Attorney General issued two opinions in the early 1980s holding that the language and legislative history of the Antideficiency Act unambiguously prohibit agency officials from incurring obligations in the absence of appropriations ("Applicability of the Antideficiency Act Upon a Lapse in an Agency's Appropriations" (1980) and "Authority for the Continuance of Government Functions During a Temporary Lapse in Appropriations" (1981)). The Department of Justice's Office of Legal Counsel issued an opinion dated August 16, 1995 that reaffirms and updates the 1981 opinion.

(b) Policies.

This section provides policy guidance and instructions for actions to be taken by Executive Branch agencies when the Congress fails to enact regular appropriations, a continuing resolution, or needed supplemental appropriations, resulting in a lapse of appropriations.

This section does not apply to specific appropriations action by the Congress to deny program funding.

When the Congress fails to act on program supplementals and the result is partial funding interruptions, special procedures beyond those outlined in this section may be warranted. In such cases, you should consult your OMB representative.

Within the guidance established by the opinions issued by the Department of Justice and this Circular, agency heads, in consultation with their general counsels, must decide what agency activities are excepted or otherwise legally authorized to continue during a lapse in appropriations. Agencies should address questions to OMB, including questions about the interpretation of the Antideficiency Act. OMB will engage with the agency and the Department of Justice's Office of Legal Counsel, as necessary and appropriate.

SECTION 124—AGENCY OPERATIONS IN THE ABSENCE OF APPROPRIATIONS

124.2 What plans should my agency make in anticipation of a lapse in appropriations?

Agency heads, in consultation with their general counsels, must develop and maintain plans for an orderly shutdown in the event of a lapse in appropriations. Up-to-date plans must be on file with OMB. Whenever there is a change in the source of funding for an agency program or any significant modification, expansion, or reduction in agency program activities, the agency must submit an updated plan to OMB for review that reflects this change. In updating their plans, agencies also should note any changes made to their plans in light of their experiences during any recent lapse in appropriations. At a minimum, agencies should submit updated plans to OMB for review every two years, in the odd-numbered years, on August 1. Plans should be updated in 2023. Plans should be submitted to your OMB examiner and with a copy to the following email address: Section124Plans@omb.eop.gov. Agencies may also contact this email address with questions.

Given that the duration of a lapse in appropriations is inherently uncertain, your plan should describe agency actions to be taken during a short-term lapse (1-5 days). It also should identify anticipated changes if the lapse extends beyond that time period. Your plan should also designate personnel responsible for implementing and adjusting the plan to respond to the length of the lapse in appropriations and changes in external circumstances.

Include the following at the beginning of your plan, using the template below:

Lapse Plan Summary Overview	
Estimated time (to nearest half day) required to complete shutdown activities:	# days
Total number of agency employees expected to be on board before implementation of the plan:	# employees
Total number of agency employees expected to be furloughed under the plan (unduplicated count):	# employees
Total number of employees to be retained under the plan for each of the following categories (may include duplicated counts):	
Compensation is financed by a resource other than annual appropriations:	# employees
Necessary to perform activities expressly authorized by law:	# employees
Necessary to perform activities necessarily implied by law:	# employees
Necessary to the discharge of the President's constitutional duties and powers:	# employees
Necessary to protect life and property:	# employees
Brief summary of significant agency activities that will continue during a lapse:	
Brief summary of significant agency activities that will cease during a lapse:	

SECTION 124—AGENCY OPERATIONS IN THE ABSENCE OF APPROPRIATIONS

The plan should then proceed to describe in detail, for each component within your agency, the following:

- ▶ To the extent that specific shutdown activities will not be completed within one-half day, specify the nature of each such activity, together with the time and the number of employees necessary to complete the activity;
- ▶ The total number of employees in the component to be on-board before implementation of the plan;
- ▶ The total number of employees in the component expected to be furloughed under the plan;
- ▶ The total number of employees to be retained in the component under the plan for each of the categories listed above (i.e., the employees' compensation is financed by carryover funds or an appropriation provided by permanent law, they are necessary to perform activities expressly authorized by law, they are necessary to perform activities necessarily implied by law, they are necessary to the discharge of the President's constitutional duties and powers, or they are necessary to protect life and property). If an employee fits in more than one category, they may be reflected in the count for all applicable categories (i.e., count may be duplicated), in order to ensure the best estimate of the number of employees within each category; and
- ▶ The agency's legal basis for each of its determinations to retain categories of employees, including a description of the nature of the agency activities in which these employees will be engaged.

To the extent that any of the information described above is expected to change should a lapse in appropriations extend for a prolonged period of time (i.e., longer than 5 days), the plan should explicitly describe these changes. In particular, the plan should indicate any points in time when the furlough status of employees may change, how many employees would be affected, and the legal basis for such changes. Agencies should consult with an OMB representative at such points in time during a lapse in appropriations to make OMB aware of any such changes. In addition, during a lapse in appropriations agencies should make an OMB representative aware of any instances where actions deviate from what is set forth in the plan.

Agency plans should also describe the actions that will be necessary to resume orderly operations once appropriations are restored, including:

- ▶ Methods for notifying employees that the shutdown furlough has ended and that they are to return to work on a specified day (normally the employee's next scheduled workday after the furlough has ended);
- ▶ Flexibilities available to supervisors if employees have problems returning to work on the day specified by the agency, including the use of accrued annual leave, compensatory time off, or credit hours;
- ▶ Procedures for resuming program activities, including steps to ensure appropriate oversight and disbursement of funds.

At the time employees are given furlough notices, agencies should provide them as much information as possible regarding how the agency will go about resuming operations after the furlough has ended.

EXHIBIT 7

Supplemental Nutrition Assistance Program (SNAP)
Lapse in Funding
Questions from States – Part 2
October 3, 2013

Employment and Training

Q. The letter in part states “For other functions, including Employment and Training, FNS encourages States to delay further obligations until appropriations legislation is enacted.” What do the words “further obligations” mean? Does this mean we should stop all E & T services immediately as we do not have a signed contract for FFY 2014 or does it mean that we continue to operate E & T services as the FFY 2014 funds are considered obligated by virtue of the letter sent notifying us of our funding?

A. FNS does not expect any new FY 2014 funding will be available for E&T during the lapse; approval of the FY 2014 plan does not obligate funds that have not been appropriated. While FNS encourages States to delay additional obligations until appropriations legislation is enacted, we recognize that States will need to make appropriate and reasonable decisions related to ongoing staff commitments. Additionally, E&T services which were contracted for in FY 2013 with a performance period which extends into FY 2014 may continue.

Finally, it is anticipated that once an appropriation is enacted, barring other Congressional action, normal FY 2014 SAE and E&T funding will be made available to the States.

Q. Since we have our mandatory ABAWD provisions going into effect today, I am wondering about the funding as the paragraph encourages states to limit the funding on SNAP E & T. Your thoughts?

A. FNS does not expect any new FY 2014 funding will be available for E&T during the lapse. While FNS encourages States to delay additional obligations until appropriations legislation is enacted, we recognize that States will need to make appropriate and reasonable decisions related to ongoing staff commitments and core activities. We encourage States to consider the continuity of operations that support uninterrupted eligibility and benefit issuance for ongoing recipients. Additionally, E&T services which were contracted for in FY 2013 with a performance period which extends into FY 2014 may continue.

Finally, it is anticipated that once an appropriation is enacted, barring other Congressional action, normal FY 2014 SAE and E&T funding will be made available to the States.

Supplemental Nutrition Assistance Program (SNAP)
Lapse in Funding
Questions from States – Part 2
October 3, 2013

Outreach

Q. Can you please advise how we handle outreach activities? Should we stop activities with our partners? Although we have not been approved yet, we anticipate that we will be soon.

A. Because SAE funds are limited in availability through the SNAP contingency funds, FNS expects States to focus on eligibility and issuance processes, integrity, oversight and system maintenance in order to ensure that benefits will reach those in need. For other functions, such as outreach and E&T, FNS encourages States to delay further obligations until appropriations legislation is enacted.

It is anticipated that once an appropriation is enacted, barring other Congressional action, normal FY 2014 SAE and E&T funding will be made available to the States.

November

Q. As I read it - SNAP benefits to clients would be available through October and there are contingency funds available that would support State administrative expenditures through October as well. However, if a shut down were to last longer than October - there would be no funding for SNAP or SAE beyond October. Can I clarify that means issuance? As you know some clients will still have benefits available on their EBT cards that may not be expended prior to the end of October... will these already issued benefits still be reimbursed to the vendor - or will the state be responsible for any unexpended issuance?

A. We understand that States may be concerned about future operations and whether benefits will be paid and redeemed in November. Questions such as this are appreciated as we consider available options, seek legal determinations, and make a final decision about a course of action closer to that time. We appreciate your patience as we work to serve SNAP participants during this potential continuing lapse in funding.

Q's. (Various and related)

- **A State makes clear that they feel compelled to alert partners no later than the 12th or 13th that there may not be November benefits. A State advises they are flooded with calls about October benefits and wants to give folks a heads up as soon as we know for November, including partners such as food pantries.**
- **Our understanding is that, absent a budget agreement, a continuing resolution that extends the 2008 Farm Bill or a reauthorization of the Farm Bill, that there is no authority to extend the issuance of SNAP benefits into November. Does USDA have a timeline for getting information to the States on the consequences of a failure of**

**Supplemental Nutrition Assistance Program (SNAP)
Lapse in Funding
Questions from States – Part 2
October 3, 2013**

Congress to act? The sooner we can begin to disseminate that information, the better. We believe that if the impasse is not resolved by the 15th of the month, it will be critical to get that information out to the States by the 17th.

A. We appreciate States' concern about future operations and the status of November benefits. We are hopeful that Congress will provide an appropriation prior to the end of October. USDA will evaluate available options, seek legal determinations and make a final decision about a course of action closer to that time. We appreciate your patience, as well as your partners' patience. The information provided in these questions, including State concern for timeframe constraints, is helpful to us as we continue to consider the issue of an extended lapse in funding beyond October.

Q. How is FNS handling messages to the public...regarding the possibility of November benefits being delayed... due to the shutdown

A. We are hopeful that Congress will provide an appropriation prior to the end of October. We continue to monitor the situation closely and will stay in close coordination with our State partners with respect to program operations in October and beyond.

Qs. (Various and related)

- 7 CFR 273.2 (g)(2) indicates that SNAP households who apply after the 15th of the month and are determined eligible for the initial month and subsequent months may be issued a combined allotment at the State agency option for the month of application and benefits for the first full month of participation. Our computer system is programmed to issue the combined allotment for eligible households who apply after the 15th of the month. This means anyone who applies October 16 or later that is certified and would receive October and November benefits as a single issuance, potentially in the month of October. How should we proceed?
- Application taken after the 15th of October will incorporate November benefits...should this be paid out of October allotment?
- If a household applies after the 15th of the month and is found eligible during the month of application, they receive a combined issuance that includes a pro-rated issuance for the month of application and a full issuance for the following month. Our understanding is that, for applications filed between October 15th and October 31st, we would treat them as usual and issue the combined benefit for October and November. Please confirm that our understanding is correct.

A. Program issuances made under this provision are proper obligations of October 2013. As such, they are provided for in currently available program funding.

Supplemental Nutrition Assistance Program (SNAP)
Lapse in Funding
Questions from States – Part 2
October 3, 2013

Q. In planning for a contingency plan based on the Food Stamp Program/benefits ending October 31, 2013.

- **What type of notice if any has to be sent to each active FS household regarding the program ending?**
- **If our computer system allows, should active cases be closed or suspended?**
- **Should we stop taking applications for Food Stamps and when?**

A. We appreciate States' concern about future operations and the status of November benefits. The questions posed here are extremely helpful to us in understanding the concerns and issues of States that need to be considered as a part of any next steps. USDA will evaluate available options, seek legal determinations and make a final decision about a course of action closer to that time.

Funding/Appropriation

Q. How quick does money start flowing once the appropriation is signed?

A. Funding for benefit issuance would be made available within 24 hours. Funding for State administrative and other activities would follow shortly thereafter.

Q. The Federal Contingency and Reconstitution Plan states that SNAP benefits for October 2013 will not be affected by the shutdown. I just want to confirm that the contingency funds for October 2013 SNAP benefits is able to cover costs in the event there is a large increase in SNAP participation for the month of October 2013?

A. To be clear, SNAP October benefits were provided through the authority from Section 101 of the American Recovery and Reinvestment Act of 2009 (ARRA) through which Congress provided "such sums as are necessary" to finance the SNAP benefits at the level specified in ARRA.

In addition, SAE funds are available through the SNAP contingency funds. FNS expects States to focus on eligibility and issuance processes, integrity, oversight and system maintenance in order to ensure that benefits will reach those in need. It is anticipated that once an appropriation is enacted, barring other Congressional action, normal FY 2014 SAE and E&T funding will be made available to the States.

**Supplemental Nutrition Assistance Program (SNAP)
Lapse in Funding
Questions from States – Part 2
October 3, 2013**

Q. What does it mean to delay further obligations?

A. Because SAE funds are limited in availability through the SNAP contingency funds, FNS expects States to focus on eligibility and issuance processes, integrity, oversight and system maintenance in order to ensure that benefits will reach those in need. For other functions, such as outreach and E&T, FNS encourages States to delay further—additional—obligations until appropriations legislation is enacted. It is anticipated that once an appropriation is enacted, barring other Congressional action, normal FY 2014 SAE and E&T funding will be made available to the States.

Furloughed federal employees

Various and related

Q. How do we handle Federal workers who are coming in with documents saying they are furloughed for 30 day...how should they be handled...what are the parameters? Would furloughed federal employees be treated any differently than a laid-off employee for Food Stamp eligibility? What should states tell Federal employees from any agency that are on furlough and say they cannot be sure of any income for October?

A. Furloughed federal employees applying for SNAP benefits should be treated the same as other applicants in similar circumstances—they must meet the income and other non-financial requirements to be determined eligible for benefits. In accordance with the Food and Nutrition Act, households shall have their incomes calculated on a prospective basis in order to determine eligibility. If a participating household's income later exceeds 130% of poverty, the household is required to report such changes in circumstances to the State Agency. When assigning a reporting system, the State Agency should consider what is the most appropriate for these households.

Q. Furloughed federal employees have started applying for FS. The work number shows their last check date as 10/03/13. Furlough federal employees are stating it was 9/28/13. Which date should be used for eligibility?

A. Different federal agencies use different payroll services so dates can vary. States should ask for verification from the applicant when information is questionable.

Supplemental Nutrition Assistance Program (SNAP)
Lapse in Funding
Questions from States – Part 2
October 3, 2013

Miscellaneous

Q. Will states be absolved of QC errors if Federal data match sources are not available to confirm information provided by applicants?

A. Due to the lapse in appropriation, FNS is evaluating our authority and options to address QC errors caused by the shutdown where the error is directly and only attributable to the inability to comply with federal regulatory matching requirements due to the inaccessibility of federal systems.

Q. Will an array of Federal benefits (SS, Veterans benefits) continue to be paid in October?

A. FNS is able to respond to the affect of the lapse in funding on the federal nutrition programs under their jurisdiction. The availability of other federal benefits would be better addressed by the cognizant agency.

Q. If states cover expenses with state funds now, will they be reimbursed later when/if Federal funds are available?

A. It is anticipated that once an appropriation is enacted, barring other Congressional action, normal FY 2014 SAE and E&T funding will be made available to the States.

Q. Will TOP continue during the furlough period?

A. States may continue to submit their TOP files. However, files will not be processed during the lapse.

EXHIBIT 8



FNS CONTINGENCY PLAN

For Shutdown Due to a Lapse in Appropriations

Prepared by

**Office of Management, Technology and Finance &
Chief Operating Officer**

Updated January 2018



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Purpose

This document describes Food & Nutrition Service (FNS) operations following a lapse in annual appropriations. This includes the continuation of excepted FNS programs and exempt activities as well as the orderly shutdown of all other Federal activities.

Scope

The functions and activities described herein are to be executed in accordance with all applicable statutes, regulations, policies, and delegations of authority.

Preparations for Shutdown as a Result of a Lapse in Appropriations

The Chief Operating Officer, in conjunction with the Chief Financial Officer and the Budget Director, has responsibility for monitoring the status of the appropriations process and advising the Administrator with regard to need to begin preparations for a potential lapse in appropriations. Not later than five days prior to the close of any appropriations period, the Chief Operating Officer will consult with the Administrator and assess the likelihood of a lapse. If the risk is judged to be significant, the Administrator will gather key Agency leadership to begin preparations.

FNS Operations during a Lapse in Appropriations

The FNS Contingency Plan outlines the Agency's operations in the event of a lapse in the annual appropriations which fund most, but not all, of FNS's programs. These activities include:

- continuation of programs which have been determined by OMB and USDA to be excepted;
- continuation of exempt activities funded through direct appropriations or other funding sources not dependent on the annual appropriations process;
- orderly shutdown of all other Federal activities and the transition to furlough status of all personnel who are neither exempt nor excepted; and
- status of State partner activities in FNS programs.

Excepted Programs: This plan reflects the continuation of the essential Federal activities and funding to maintain the core programs of the nutrition safety net, including the Supplemental Nutrition Assistance Program (SNAP), the Child Nutrition (CN) programs, and the Special Supplemental Nutrition Program for Women, Infants and Children (WIC). Additionally, FNS' disaster authorities under the Food and Nutrition Act of 2008 and the Stafford Act would continue. These activities will continue to the extent that funds, as described above, are available to support



those programs. Please see *Excepted Personnel Required for the Continuation of Excepted Programs and Activities* below for a discussion of the Federal staff associated with these programs and activities.

Exempt Activities: Funding for exempt activities is received independent of the annual appropriations process and, as such, is not subject to lapse. FNS currently receives a series of appropriations for activities within the Child Nutrition programs and for the Senior Farmers Market program directly from authorizing statute without need of annual appropriation action. These programs and activities will continue during a lapse in annual appropriations. Please see *Exempt Personnel Funded by Direct Appropriation* below for a discussion of the Federal staff associated with these programs and activities.

Orderly Shutdown: All other direct Federal activities not associated with Excepted or Exempt programs and activities will cease during a lapse in annual appropriation. FNS will execute an orderly shutdown in a manner consistent with OMB, OPM and USDA guidance. Please see *Personnel for Orderly Shutdown* below for a discussion of the Federal staff associated with this activity.

Partner Activities in FNS Programs: FNS' partners (State agencies and other grantees) may continue operations during a lapse in appropriations utilizing legally available Federal resources previously provided to them or their own resources. For excepted or exempt programs and activities, funding and Federal support will continue. This may be on a limited or restricted basis. For other FNS program and activities all Federal support will cease for the duration of the lapse.

Excepted Personnel Required for the Continuation of Excepted Programs and Activities

USDA and OMB have jointly determined that there is Congressional intent that core programs of the nutrition safety net, including the Supplemental Nutrition Assistance Program (SNAP), the Child Nutrition (CN) programs and the Special Supplemental Nutrition Program for Women, Infants and Children (WIC) shall continue operations during a lapse in appropriations. Budget authority including: multi-year carry over funds; contingency reserves; and quarterly apportionment of funds by OMB under the continuing resolutions due standard obligational patterns and the special mandatory payments provision have been apportioned by OMB to support program operations during the period of the lapse. To fulfill this Congressional intent, it is a necessary implication that a limited number of FNS employees be excepted from furlough to support program operations. These activities include, but are not limited to, program policy, operations, and financial management.

The number and mix of staff required to support these activities varies depending upon the point in the fiscal year in which the lapse occurs, any appropriation activity (including continuing resolutions) which preceded the lapse; the duration of the lapse and other programmatic considerations (e.g. disaster response). The following tables present two primary potential lapse



scenarios and the staff required to support the continuation of excepted programs and activities in those circumstances.

During any lapse in appropriation FNS works to keep excepted staff to the minimum necessary to support program continuation. However, it is important to note that the operational environments of FNS programs are very dynamic. It is not possible to completely anticipate the number of staff and mix of skills required to respond to every challenge which may arise in the course of a lapse. FNS will use the USDA recommended recall process to bring furloughed staff back to duty to accomplish critical tasks on an as needed basis. Once that task is completed, recalled staff will return to furlough status. Further, excepted staff listed below in Tables 1 and 2 whose services are determined to be unnecessary for a specific lapse may be moved to furlough status at the discretion of the Administrator.

Table 1: Excepted Staffing Required to Support Program Continuation Other Than at Fiscal Year Start Up or Fiscal Year Quarter Change

Organization	Excepted Staffing
Administrator's Office	Administrator Chief of Staff to the Administrator
Office of the Chief Operating Officer	Associate Administrator and Chief Operating Officer
SNAP	Associate Administrator for SNAP Director, SNAP Program Development Division Director, SNAP Retailer Policy and Management Division
Child Nutrition	Deputy Administrator for CN Programs Director, Policy and Program Development Division
Supplemental Nutrition and Safety	Deputy Administrator for SNAS Director, Office of Food Safety Director, Supplemental Food Nutrition Program Division Director, Food Distribution Division
Office of Financial Management	Chief Financial Officer Director, Budget Division Accountant, ASAP/AMA Certification Accountant, ASAP/AMA Certification Accountant, FRB/AMA Reconciliation
Office of Management	Deputy Administrator for Management Director, Human Resources Division Director, Contracts Management Division



Organization	Excepted Staffing
	Director, Operations and Facilities Division
Office of Information Technology	Chief Information Officer Director, Portfolio Management Division Director, Technology Division Director, Information Security Division Chief, Network Engineering Operations Branch Chief, Customer Service Branch
Office of Policy Support/Office of the Chief Communications Officer	Deputy Administrator for Policy Support Director, Communications Division
Regional Operations and Support	Associate Administrator for ROS Director, Office Emergency Management
Northeast Regional Office	Regional Administrator
Mid-Atlantic Regional Office	Regional Administrator
Southeast Regional Office	Regional Administrator
Mid-West Regional Office	Regional Administrator
Mountain Plains Regional Office	Regional Administrator
Southwest Regional Office	Regional Administrator
Western Regional Office	Regional Administrator
Center for Nutrition Policy and Promotion	No Staff Excepted

Table 2: Excepted Staffing Required to Support Program Continuation at Fiscal Year Start Up or Fiscal Year Quarter Change



Organization	Excepted Staffing
Administrator's Office	Administrator Chief of Staff to the Administrator
Office of the Chief Operating Officer	Associate Administrator and Chief Operating Officer
SNAP	Associate Administrator for SNAP Director, SNAP Program Development Division Director, SNAP Retailer Policy and Management Division
Child Nutrition	Deputy Administrator for CN Programs Director, Policy and Program Development Division
Supplemental Nutrition and Safety	Deputy Administrator for SNAS Director, Office of Food Safety Director, Supplemental Foods Program Division Director, Food Distribution Division Chief, Funding Branch, WIC Program Analyst, FDD Chief, CNOB Branch,
Office of Financial Management	Chief Financial Officer Director, Budget Division Chief, Program Budget Branch Budget Analyst Budget Analyst Director, Accounting Division Accountant, ASAP/AMA Certification Accountant, ASAP/AMA Certification Accountant, FRB/AMA Reconciliation Systems Accountant, FMMI Program Systems Accountant, FMMI Administrative
Office of Management	Deputy Administrator for Management Director, Human Resources Division Director, Contracts Management Division Director, Operations and Facilities Division
Office of Information Technology	Chief Information Officer Director, Portfolio Management Division Director, Technology Division Director, Information Security Division Chief, Network Engineering Operations Branch Chief, Customer Service Branch
Office of Policy Support/Office of the Chief	Deputy Administrator for Policy Support Chief Communications Officer



Organization	Excepted Staffing
Communications Officer	
Regional Operations and Support	Associate Administrator for ROS Director, Office Emergency Management
Northeast Regional Office	Regional Administrator Regional GMAS Director Grants Management Specialist Grants Management Specialist
Mid-Atlantic Regional Office	Regional Administrator Regional GMAS Director Grants Management Specialist Grants Management Specialist
SERO	Regional Administrator Regional GMAS Director Grants Management Specialist Grants Management Specialist
MWRO	Regional Administrator Regional GMAS Director Grants Management Specialist Grants Management Specialist
MPRO	Regional Administrator Regional GMAS Director Grants Management Specialist Grants Management Specialist
SWRO	Regional Administrator Regional GMAS Director Grants Management Specialist Grants Management Specialist
WRO	Regional Administrator Regional GMAS Director Grants Management Specialist Grants Management Specialist
Center for Nutrition Policy and Promotion	No Staff Excepted

Exempt Personnel Funded by Direct Appropriation

FNS staff funded by direct appropriation or other funding sources not subject to annual appropriations will be regarded as exempt and continue in duty status during a lapse in



appropriations. As a part of the preparations for any potential lapse, the Office of Financial Management will identify all staff currently in exempt status and provide that information to the Administrator, the Director of Human Resources, and the Senior Leadership team. Exempt staff will be notified of their status and its implications prior to any lapse in appropriations.

Personnel for Orderly Shutdown

FNS will execute an orderly shutdown in a manner consistent with OMB, OPM and USDA guidance. Direct Federal activities not associated with excepted or exempt programs and activities will cease during a lapse in annual appropriation. All FNS employees will report for duty on the first regular business day following a lapse. Employees who are neither excepted nor exempt will engage in an orderly shutdown based on guidance provided by the Director of Human Resources. It is expected that basic orderly shutdown activities will be completed as expeditiously as possible after which staff will transition to furlough status.

A small subset of staff will be identified for their required roles in shutdown activities beyond the basic activities required of all staff. They will continue in duty status only as long as is required to complete the tasks for which they were identified after which they will transition to furlough status. As a part of the preparations for any lapse in appropriations the Director of Human Resources will, in consultation with Senior Leadership, compile a list of personnel with orderly shutdown responsibilities beyond the basic requirements for the approval of the Administrator. Staff designated essential will be notified of their status and its implications prior to any lapse in appropriations.

EXHIBIT 9

Food, Nutrition and Consumer Services (FNCS)

Preparations for Shutdown as a Result of a Lapse in Appropriations

The Chief Operating Officer, in conjunction with the Chief Financial Officer and the Budget Director, has responsibility for monitoring the status of the appropriations process and advising the Administrator with regard to need to begin preparations for a potential lapse in appropriations. Not later than five days prior to the close of any appropriations period, the Chief Operating Officer will consult with the Administrator and assess the likelihood of a lapse. If the risk is judged to be significant, the Administrator will gather key Agency leadership to begin preparations.

FNS Operations during a Lapse in Appropriations

The FNS Contingency Plan outlines the Agency's operations in the event of a lapse in the annual appropriations which fund most, but not all, of FNS's programs. These activities include:

- continuation of programs which have been determined by OMB and USDA to be excepted;
- continuation of exempt activities funded through direct appropriations or other funding sources not dependent on the annual appropriations process;
- orderly shutdown of all other Federal activities and the transition to furlough status of all personnel who are neither exempt nor excepted; and
- status of State partner activities in FNS programs.

Excepted Programs: This plan reflects the continuation of the essential Federal activities and funding to maintain the core programs of the nutrition safety net, including the Supplemental Nutrition Assistance Program (SNAP), the Child Nutrition (CN) programs, and the Special Supplemental Nutrition Program for Women, Infants and Children (WIC). Additionally, other mandatory activities under the Food and Nutrition Act of 2008, including but not limited to Food Distribution on Indian Reservations and nutrition assistance block grants, will continue as will Commodity ordering and procurement activities in support of mandatory excepted programs will continue in conjunction with the Agriculture Marketing Service (AMS) to the extent permitted by multi-year and directly appropriated funds. FNS' disaster response activities under the Food and Nutrition Act of 2008 and the Stafford Act. These activities will continue to the extent that funds, as described above, are available to support those programs. Please see *Excepted Personnel Required for the Continuation of Excepted Programs and Activities* below for a discussion of the Federal staff associated with these programs and activities.

Exempt Activities: Funding for exempt activities is received independent of the annual appropriations process and, as such, is not subject to lapse. FNS currently receives a series of appropriations for activities within the Child Nutrition programs and for the Senior Farmers

Market program directly from authorizing statute without need of annual appropriation action. These programs and activities will continue during a lapse in annual appropriations. Please see *Exempt Personnel Funded by Direct Appropriation* below for a discussion of the Federal staff associated with these programs and activities.

Orderly Shutdown: All other direct Federal activities not associated with Excepted or Exempt programs and activities will cease during a lapse in annual appropriation. FNS will execute an orderly shutdown in a manner consistent with OMB, OPM and USDA guidance. Please see *Personnel for Orderly Shutdown* below for a discussion of the Federal staff associated with this activity.

Partner Activities in FNS Programs: FNS' partners (State agencies and other grantees) may continue operations during a lapse in appropriations utilizing legally available Federal resources previously provided to them or their own resources. For excepted or exempt programs and activities, funding and Federal support will continue. This may be on a limited or restricted basis. For other FNS program and activities all Federal support will cease for the duration of the lapse.

Excepted Personnel Required for the Continuation of Excepted Programs and Activities

USDA and OMB have jointly determined that there is Congressional intent that core programs of the nutrition safety net, including the Supplemental Nutrition Assistance Program (SNAP), the Child Nutrition (CN) programs and the Special Supplemental Nutrition Program for Women, Infants and Children (WIC) shall continue operations during a lapse in appropriations. Budget authority including: multi-year carry over funds; contingency reserves; and quarterly apportionment of funds by OMB under the continuing resolutions due to standard obligational patterns and the special mandatory payments provision have been apportioned by OMB to support program operations during the period of the lapse. To fulfill this Congressional intent, it is a necessary implication that a limited number of FNS employees be excepted from furlough to support program operations. These activities include, but are not limited to, program policy, operations, and financial management. In addition, in order to meet the requirements of the National Nutrition Monitoring and Related Research Act of 1990; and Agricultural Act of 2014, FNS will designate excepted staff working on the development of the Dietary Guidelines for Americans.

The number and mix of staff required to support these activities varies depending upon the point in the fiscal year in which the lapse occurs, any appropriation activity (including continuing resolutions) which preceded the lapse; the duration of the lapse and other programmatic considerations (e.g. disaster response). The following tables present two primary potential lapse scenarios and the staff required to support the continuation of excepted programs and activities in those circumstances.

During any lapse in appropriation FNS works to keep excepted staff to the minimum necessary to support program continuation. However, it is important to note that the operational environments of FNS programs are very dynamic. It is not possible to completely anticipate the number of staff and mix of skills required to respond to every challenge which may arise in the course of a lapse. FNS will use the USDA recommended recall process to bring furloughed staff

back to duty to accomplish critical tasks on an as needed basis. Once that task is completed, recalled staff will return to furlough status. Further, excepted staff listed below in Tables 1 and 2 whose services are determined to be unnecessary for a specific lapse may be moved to furlough status at the discretion of the Administrator.

Table 1: Excepted Staffing Required to Support Program Continuation during a Short (up to three day) Lapse in Appropriations

Organization	Excepted Staffing
Administrator's Office	Administrator Chief of Staff to the Administrator Senior Associate Administrator for Policy
Office of the Chief Operating Officer	Associate Administrator and Chief Operating Officer
SNAP	Associate Administrator for SNAP Director, SNAP Program Development Division Director, SNAP Retailer Policy and Management Director, Program Administration and Accountability Division
Child Nutrition	Deputy Administrator for CN Programs Director, Policy and Program Development Division
Supplemental Nutrition and Safety (SNAS)	Deputy Administrator for SNAS Director, Supplemental Food Nutrition Program Division (SFNP) Director, Food Distribution Division (FDD)
Office of Financial Management	Chief Financial Officer Director, Budget Division Chief, Program Budget Branch Accountant, ASAP/AMA Certification Accountant, ASAP/AMA Certification Accountant, FRB/AMA Reconciliation
Office of Management	Director, Human Resources Division Director, Contracts Management Division Director, Operations and Facilities Division
Office of Information Technology	Chief Information Officer Director, Portfolio Management Division Director, Technology Division Director, Information Security Division Chief, Network Engineering Operations Branch Chief, Customer Service Branch
Office of Policy Support	Deputy Administrator for Policy Support Director, Communications Division
Center for Nutrition Policy and Promotion	Deputy Administrator Designated Federal Officer
Retailer Operations and Compliance	Deputy Administrator for ROC

Organization	Excepted Staffing
Regional Operations and Support	Associate Administrator for ROS Director, Office Emergency Management
Northeast Regional Office	Regional Administrator
Mid-Atlantic Regional Office	Regional Administrator
Southeast Regional Office	Regional Administrator
Mid-West Regional Office	Regional Administrator
Mountain Plains Regional Office	Regional Administrator
Southwest Regional Office	Regional Administrator
Western Regional Office	Regional Administrator

Table 2: Excepted Staffing Required to Support Program Continuation during a Longer Lapse in Appropriations and at Fiscal Year Start Up or Fiscal Year Quarter Change

Organization	Excepted Staffing
Administrator's Office	Administrator Chief of Staff to the Administrator Senior Associate Administrator for Policy
Office of the Chief Operating Officer	Associate Administrator and Chief Operating Officer Deputy Chief Operating Officer
SNAP	Associate Administrator for SNAP Director, SNAP Program Development Division Director, SNAP Retailer Policy and Management Division 5 additional excepted positions as needed
Child Nutrition	Deputy Administrator for CN Programs Director, Policy and Program Development Division
Supplemental Nutrition and Safety (SNAS)	Deputy Administrator for SNAS Director, Supplemental Foods Program Division (SFPD) Director, Food Distribution Division (FDD) Chief, Funding Branch, WIC 4 additional excepted positions as needed
Office of Financial Management	Chief Financial Officer Director, Budget Division

Organization	Excepted Staffing
	Chief, Program Budget Branch Budget Analyst Budget Analyst Director, Accounting Division Accountant, ASAP/AMA Certification Accountant, ASAP/AMA Certification Accountant, FRB/AMA Reconciliation Systems Accountant, FMMI Program Systems Accountant, FMMI Administrative
Office of Management	Director, Human Resources Division Director, Contracts Management Division Director, Operations and Facilities Division 3 additional excepted staff as needed (PAR processor, master timekeeper, contracts specialist)
Office of Information Technology	Chief Information Officer Director, Portfolio Management Division Director, Technology Division Director, Information Security Division Chief, Network Engineering Operations Branch Chief, Customer Service Branch 2 additional excepted positions as needed (telecom, network, and program management)
Office of Policy Support	Deputy Administrator for Policy Support Director, Communications Division
Center for Nutrition Policy and Promotion	Deputy Administrator Designated Federal Officer 4 additional excepted positions as needed
Retailer Operations and Compliance	Deputy Administrator for ROC
Regional Operations and Support	Associate Administrator for ROS Director, Office Emergency Management
Northeast Regional Office	Regional Administrator Regional GMAS Director Regional SNAP or SNP Director Grants Management Specialist or Accountant (2)
Mid-Atlantic Regional Office	Regional Administrator Regional GMAS Director Regional SNAP or SNP Director Grants Management Specialist or Accountant (2)
SERO	Regional Administrator Regional GMAS Director Regional SNAP or SNP Director Grants Management Specialist or Accountant (2)
MWRO	Regional Administrator Regional GMAS Director Regional SNAP or SNP Director Grants Management Specialist or Accountant (2)
MPRO	Regional Administrator Regional GMAS Director Regional SNAP or SNP Director Grants Management Specialist or Accountant (2)

Organization	Excepted Staffing
SWRO	Regional Administrator Regional GMAS Director Regional SNAP or SNP Director Grants Management Specialist or Accountant (2)
WRO	Regional Administrator Regional GMAS Director Regional SNAP or SNP Director Grants Management Specialist or Accountant (2)

Exempt Personnel Funded by Direct Appropriation

FNS staff funded by direct appropriation or other funding sources not subject to annual appropriations will be regarded as exempt and continue in duty status during a lapse in appropriations. As a part of the preparations for any potential lapse, the Office of Financial Management will identify all staff currently in exempt status and provide that information to the Administrator, the Director of Human Resources, and the Senior Leadership team. Exempt staff will be notified of their status and its implications prior to any lapse in appropriations.

Personnel for Orderly Shutdown

FNS will execute an orderly shutdown in a manner consistent with OMB, OPM and USDA guidance. Direct Federal activities not associated with excepted or exempt programs and activities will cease during a lapse in annual appropriation. All FNS employees will report for duty on the first regular business day following a lapse. Employees who are neither excepted nor exempt will engage in an orderly shutdown based on guidance provided by the Director of Human Resources. It is expected that basic orderly shutdown activities will be completed as expeditiously as possible after which staff will transition to furlough status.

A small subset of staff will be identified for their required roles in shutdown activities beyond the basic activities required of all staff. They will continue in duty status only as long as is required to complete the tasks for which they were identified after which they will transition to furlough status. As a part of the preparations for any lapse in appropriations the Director of Human Resources will, in consultation with Senior Leadership, compile a list of personnel with orderly shutdown responsibilities beyond the basic requirements for the approval of the Administrator. Staff designated as having responsibilities beyond orderly shutdown will be notified of their status and its implications prior to any lapse in appropriations.

EXHIBIT 10

Food, Nutrition and Consumer Services (FNCS)

Preparations for Shutdown as a Result of a Lapse in Appropriations

The Assistant Administrator, in conjunction with the Chief Financial Officer and the Budget Director, has responsibility for monitoring the status of the appropriations process and advising the Administrator with regard to need to begin preparations for a potential lapse in appropriations. Not later than five days prior to the close of any appropriations period, the Assistant Administrator will consult with the Administrator and assess the likelihood of a lapse. If the risk is judged to be significant, the Administrator will gather key Agency leadership to begin preparations.

FNS Operations during a Lapse in Appropriations

The FNS Contingency Plan outlines the Agency's operations in the event of a lapse in the annual appropriations which fund most, but not all, of FNS's programs. These activities include:

- continuation of programs which have been determined by OMB and USDA to be excepted, to the extent funding is available;
- continuation of exempt activities funded through direct appropriations or other funding sources not dependent on the annual appropriations process;
- orderly shutdown of all other Federal activities and the transition to furlough status of all personnel who are neither exempt nor excepted; and
- status of State partner activities in FNS programs.

Excepted Programs: This plan reflects the continuation of the essential Federal activities to maintain the core programs of the nutrition safety net, including the Supplemental Nutrition Assistance Program (SNAP), the Child Nutrition (CN) programs, and the Special Supplemental Nutrition Program for Women, Infants and Children (WIC). Additionally, other mandatory activities under the Food and Nutrition Act of 2008, including but not limited to Food Distribution on Indian Reservations and nutrition assistance block grants, will continue as will Commodity ordering and procurement activities in support of mandatory excepted programs in conjunction with the Agriculture Marketing Service (AMS) to the extent permitted by multi-year and directly appropriated funds. FNS' disaster response activities under the Food and Nutrition Act of 2008 and the Stafford Act will continue to the extent that funds, as described above, are available to support those programs. Please see *Excepted Personnel Required for the Continuation of Excepted Programs and Activities* below for a discussion of the Federal staff associated with these programs and activities. If multi-year and directly appropriated funding is insufficient to fund these programs during the period of the lapse, then program operations for the above programs would cease.

Exempt Activities: Funding for exempt activities is received independent of the annual appropriations process and, as such, is not subject to lapse. FNS currently receives a series of appropriations for activities within the Child Nutrition programs and for the Senior Farmers Market program directly from authorizing statute without need of annual appropriation action. These programs and activities will continue during a lapse in annual appropriations.

States' ability to continue the orderly conclusion of Pandemic EBT activities will not be impacted by a lapse in appropriations.

Please see *Exempt Personnel Funded by Direct Appropriation* below for a discussion of the Federal staff associated with these programs and activities.

Orderly Shutdown: All other direct Federal activities not associated with Excepted or Exempt programs and activities will cease during a lapse in annual appropriation. FNS will execute an orderly shutdown in a manner consistent with OMB, OPM and USDA guidance. Please see *Personnel for Orderly Shutdown* below for a discussion of the Federal staff associated with this activity.

Partner Activities in FNS Programs: FNS' partners (State agencies and other grantees) may continue operations during a lapse in appropriations utilizing legally available Federal resources previously provided to them or their own resources. For excepted or exempt programs and activities, funding and Federal support will continue. This may be on a limited or restricted basis. For other FNS program and activities all Federal support will cease for the duration of the lapse.

Excepted Personnel Required for the Continuation of Excepted Programs and Activities

Core programs of the nutrition safety net, including the Supplemental Nutrition Assistance Program (SNAP), the Child Nutrition (CN) programs and the Special Supplemental Nutrition Program for Women, Infants and Children (WIC) will continue operations during a lapse in appropriations, subject to the availability of funding. Multi-year carry over funds and contingency reserves would be apportioned by OMB to support program operations during the period of the lapse to the extent such funding exists; funding from continuing resolutions, including the special mandatory payments provision generally included in continuing resolutions, would also be available to support program operations in a lapse the follows the expiration of a continuing resolution. It is therefore a necessary implication that a limited number of FNS employees be excepted from furlough to support program operations to the extent that such programs have funding to operate. These activities include, but are not limited to, program policy, operations, and financial management. In addition, in order to meet the requirements of the National Nutrition Monitoring and Related Research Act of 1990; and Agricultural Act of 2014, FNS will designate excepted staff working on the development of the Dietary Guidelines for Americans.

The number and mix of staff required to support these activities varies depending upon the point in the fiscal year in which the lapse occurs, any appropriation activity (including continuing resolutions) which preceded the lapse; the duration of the lapse and other programmatic considerations (e.g. disaster response). The following tables present two primary potential lapse

scenarios and the staff required to support the continuation of excepted programs and activities in those circumstances.

During any lapse in appropriation FNS works to keep excepted staff to the minimum necessary to support program continuation. However, it is important to note that the operational environments of FNS programs are very dynamic. It is not possible to completely anticipate the number of staff and mix of skills required to respond to every challenge which may arise in the course of a lapse. FNS will use the USDA recommended recall process to bring furloughed staff back to duty to accomplish critical tasks on an as needed basis. Once that task is completed, recalled staff will return to furlough status. Further, excepted staff listed below in Tables 1 and 2 whose services are determined to be unnecessary for a specific lapse may be moved to furlough status at the discretion of the Administrator.

Table 1: Excepted Staffing Required to Support Program Continuation during a Short (up to three day) Lapse in Appropriations

Organization	Excepted Staffing
Administrator's Office	Administrator Assistant Administrator Chief of Program Administration Chief of Policy
Office of the Chief Operating Officer	Chief Operating Officer
SNAP	Associate Administrator for SNAP Director, Program Development Division Director, Retailer Policy Division Director, Issuance Policy and Innovation Division Director, Program Administration and Nutrition Division
Child Nutrition	Deputy Administrator for CN Programs Director, Community Meals Policy Division 1 additional excepted position as needed
Supplemental Nutrition and Safety (SNAS)	Deputy Administrator for SNAS Senior Advisor or Special Assistant
Office of Financial Management	Chief Financial Officer Deputy Chief Financial Officer Director, Budget Division Chief, Program Budget Branch Accountant, ASAP/AMA Certification Accountant, ASAP/AMA Certification Accountant, FRB/AMA Reconciliation
Office of Management	Chief Human Capital Officer Director, Contracts Management Division Director, Operations and Facilities Division
Office of Information Technology	Assistant Chief Information Officer Director, Program Management Division Director, Technology Division Director, Information Security Division Chief, Infrastructure and Cloud Branch

Chief, Customer Experience Branch
Deputy Administrator for Policy Support
Communications Director
Deputy Administrator
Deputy Administrator for ROC
Associate Administrator for ROS
Director, Office Emergency Management
Regional Administrator

Table 2: Excepted Staffing Required to Support Program Continuation during a Longer Lapse in Appropriations and at Fiscal Year Start Up or Fiscal Year Quarter Change

Organization	Excepted Staffing
Administrator's Office	Administrator Assistant Administrator Chief of Program Administration Chief of Policy
Office of the Chief Operating Officer	Chief Operating Officer Deputy Chief Operating Officer
SNAP	Associate Administrator for SNAP Director, Program Development Division Director, Retailer Policy Division Senior Technical Advisor, Issuance Policy and Innovation Division 5 additional excepted positions as needed
Child Nutrition	Deputy Administrator for CN Programs Director, Community Meals Division 1 additional excepted position as needed
Supplemental Nutrition and Safety (SNAS)	Deputy Administrator for SNAS Senior Advisor Director, Funding and Technology Division Director, USDA Foods Operations Division Chief, Funding Branch, WIC 4 additional excepted positions as needed
Office of Financial Management	Chief Financial Officer Deputy Chief Financial Officer Director, Budget Division Chief, Program Budget Branch

	Budget Analyst Budget Analyst Director, Accounting Division Accountant, ASAP/AMA Certification Accountant, ASAP/AMA Certification Accountant, FRB/AMA Reconciliation Systems Accountant, FMMI Program Systems Accountant, FMMI Administrative
Office of Management	Chief Human Capital Officer Director, Contracts Management Division Director, Operations and Facilities Division 3 additional excepted staff as needed (PAR processor, master timekeeper, contracts specialist)
Office of Information Technology	Assistant Chief Information Officer Director, Program Management Division Director, Technology Division Director, Information Security Division Chief, Infrastructure and Cloud Branch Chief, Customer Experience Branch 4 Additional excepted positions as needed (telecom, information security, infrastructure, and program management)
Office of Policy Support	Deputy Administrator for Policy Support Chief of Staff
Center for Nutrition Policy and Promotion	Deputy Administrator
Retailer Operations and Compliance	Deputy Administrator for ROC
Regional Operations and Support	Associate Administrator for ROS Director, Office Emergency Management
Northeast Regional Office	Regional Administrator Regional GMAS Director Regional SNAP, CNP or SNP Director Grants Management Specialist or Accountant (2)
Mid-Atlantic Regional Office	Regional Administrator Regional GMAS Director Regional SNAP, CNP or SNP Director Grants Management Specialist or Accountant (2)
Southeast Regional Office	Regional Administrator Regional GMAS Director Regional SNAP, CNP or SNP Director Grants Management Specialist or Accountant (2)
Mid-West Regional Office	Regional Administrator Regional GMAS Director Regional SNAP, CNP or SNP Director Grants Management Specialist or Accountant (2)
Mountain Plains Regional Office	Regional Administrator Regional GMAS Director Regional SNAP, CNP or SNP Director Grants Management Specialist or Accountant (2)
Southwest Regional Office	Regional Administrator Regional GMAS Director Regional SNAP, CNP or SNP Director Grants Management Specialist or Accountant (2)

Western Regional Office	Regional Administrator Regional GMAS Director Regional SNAP, CNP or SNP Director Grants Management Specialist or Accountant (2)
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Exempt Personnel Funded by Direct Appropriation

FNS staff funded by direct appropriation or other funding sources not subject to annual appropriations will be regarded as exempt and continue in duty status during a lapse in appropriations. As a part of the preparations for any potential lapse, the Office of Financial Management will identify all staff currently in exempt status and provide that information to the Administrator, the Director of Human Resources, and the Senior Leadership team. Exempt staff will be notified of their status and its implications prior to any lapse in appropriations.

Personnel for Orderly Shutdown

FNS will execute an orderly shutdown in a manner consistent with OMB, OPM and USDA guidance. Direct Federal activities not associated with excepted or exempt programs and activities will cease during a lapse in annual appropriation. All FNS employees will report for duty on the first regular business day following a lapse. Employees who are neither excepted nor exempt will engage in an orderly shutdown based on guidance provided by the Director of Human Resources. It is expected that basic orderly shutdown activities will be completed as expeditiously as possible after which staff will transition to furlough status.

A small subset of staff will be identified for their required roles in shutdown activities beyond the basic activities required of all staff. They will continue in duty status only as long as is required to complete the tasks for which they were identified after which they will transition to furlough status. As a part of the preparations for any lapse in appropriations the Director of Human Resources will, in consultation with Senior Leadership, compile a list of personnel with orderly shutdown responsibilities beyond the basic requirements for the approval of the Administrator. Staff designated as having responsibilities beyond orderly shutdown will be notified of their status and its implications prior to any lapse in appropriations.

EXHIBIT 11

UNITED STATES DEPARTMENT OF AGRICULTURE
FY 2024
SUMMARY OF ACTIVITIES TO BE CONTINUED IN THE EVENT OF A GOVERNMENT SHUTDOWN

Agency	Description of Activities to be Continued	Estimated Employment by Category					Total as % of Staff				
		I	II	III	IV	V					
	Estimated Days to Complete Shutdown Activities	Current On-Board Staff									
Farm Production and Conservation: Farm Service Agency.....	<u>Cat. I</u> - Continuation of ongoing policy development and program activities under FSA Sec. 2206, with key staff performing activities up to application approval during the first two weeks of a lapse in appropriation. Additional program activities to be performed at the discretion of the FPAC Under Secretary. <u>Cat. V</u> - FSA leadership staff from HQ and State Offices will be on call for first 10 days. If a shutdown continues past 10 days, one farm loan employee per service center will be on call to file financing statement required to protect FSA Security interest related to collateral used to secure farm loans.	Programs and activities not in support of securing collateral used to secure farm loans.	0.5	10,898 a/	35	0	0	2,542	2,577	24%	
Natural Resources Conservation Service	<u>Cat. V</u> - NRCS will continue minimum operations for excepted activities to protect life and property related to its Plant Materials Center and reg. activities and work required for dam safety and watershed operations. Senior leaders and a very minimal staff will be excepted on call.	Programs and activities not supported by mandatory, supplemental or carryover funding would cease during a lapse.	0.5	400	0	0	0	45	45	11%	
Business Center.....	<u>Cat. V</u> - The FPAC Business Center will continue minimum operations for excepted activities to protect life and property where applicable and for the orderly shutdown. Senior leaders and a very minimal staff will be excepted or excused on call.	Divisions and offices that provide administrative support for FPAC will cease during shutdown.	0.5	10,744	0	0	0	474	398	398	
Trade and Foreign Agricultural Affairs: Foreign Agricultural Service	<u>Cat. I</u> - Staff to support programs with available carryover funding. <u>Cat. III</u> . Continue to work on exempt programs to support mission critical activities.	Dry-to-dry, non-critical activities for the market promotion programs will cease	0.5	1,101 b/	348	1	134	0	0	483	44%
The U.S. Codex Office.....	<u>Cat. IV</u> - Perform activities necessary to the discharge of the President's constitutional duties and powers as they relate to preparation for and participation in critical international negotiations that cannot be postponed or cancelled. Excepted functions would also include critical actions following the negotiating sessions. Examples include regular and extraordinary sessions of the Codex Alimentarius Commission and/or subsidiary bodies and previously scheduled and funded multilateral engagements with foreign governments related to Codex issues.	The following activities will cease during a lapse in appropriations: daily administrative activities, non-critical foreign travel, attendance/payroll support, email and access to work files for non-essential staff; reimbursable agreement activities not funded; HR, IT, and budgetary support would be minimal.	0.5	7	0	0	0	1	1	14%	
Rural Development Rural Development.....	<u>Cat. I</u> - Continuation of ongoing policy development and program activities under FSA, with key staff performing activities up to application approval during the first two weeks of a lapse in appropriation. Additional program activities to be performed at the discretion of the RD Under Secretary. <u>Cat. III</u> - Continue to work on exempt programs to support mission critical activities. <u>Cat. V</u> - Preserve RD and FLP loans and grants portfolio, which exceeds \$265 million.	Any new loans or grants for discretionary programs will cease.	0.5	4,645	104	0	25	0	147	499	628
Food Nutrition and Consumer Services: Food and Nutrition Service.....	<u>Cat. I</u> - Available direct and supplemental appropriations to support certain Child Nutrition and WIC operations. <u>Cat. III</u> - Continue to work on exempt programs to support mission critical activities. <u>Cat. V</u> - Federal security personnel that conduct both physical and cyber security activities and are required to be present in the building, when personnel are.	All Federal activities supporting unfunded discretionary programs would cease, although State activity may continue out of inventory and previously awarded grant funds. All technical assistance and management evaluations with State or other partners will cease. New store authorization for SNAP and WIC programs will cease. In addition, the following activities will also cease: financial management beyond funds management, regulatory work, travel and conference presentation/participation.	0.5	1,767	56	0	98	0	2	2	156

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SUMMARY OF ACTIVITIES TO BE CONTINUED IN THE EVENT OF A GOVERNMENT SHUTDOWN

Agency	Description of Activities to be Continued	Estimated Days to Complete Shutdown Activities	Estimated Employment by Category					Total as % of Staff				
			I	II	III	IV	V					
Food Safety and Inspection Service	Cat.I - Utilize carryover and reimbursable funding to conduct inspection activities. Cat.IV - Necessary To the Discharge Of The President's Constitutional Duties and Powers. Cat.V - Provide personnel essential to the functioning of food safety operations in the nation's food supply, who would continue to perform functions essential to public health during a government shutdown. Such functions include regulatory inspection of meat, poultry, and egg products that is mandated by law; lab work essential to the identification of public health concerns and threats; emergency preparedness; mandatory administrative work related to the shutdown; and other functions necessarily implied by law.	All functions not required to directly or indirectly support the protection of life and property.	0.5	8,688	14	0	0	3	7,673	7,673	7,690	89%
Natural Resources and Environment:	Cat.I - Employees are financed from available funds other than annual appropriations: -Manages some timber sale contracts. -Utilize DOL funds DOL already disbursed to maintain Job Corps centers. -Permanent appropriations or trust fund accounts funded by collections and for which budget authority has been received. -Cost recovery non-appropriated dollars for the processing/monitoring of high priority critical infrastructure and use authorizations. -Supplemental funding including GAOA, disaster, BIF, and IRA. Cat.III - Employees are financed from available funds from prior year appropriations: -Support Activities of staff required to work and to safeguard property CIO, HR, PPS, ASC.	Limited new timber sales, reduced hazardous fuels treatments, approximately 500 recreation special use permits a month would not be processed, revenue lost on recreation fees paid to the Forest Service, when the government reopened increased costs to address increased vandalism and waste on the recreation lands and Statewide forest inventories would be delayed.	2.0	30,454	6,245	0	200	0	10,315	0	16,760	55%
Research, Education and Economics:	Cat.I - Protection of research property and data where significant damage could result if unattended for any period of time; and 2) Senior Leaders to maintain contact through official channels and monitor communications.	All agency activities will cease except for those that are for 1) Protection of research property and data where significant damage could result if unattended for any period of time; and 2) Senior Leaders to maintain contact through official channels and monitor communications.	0.5	7,120	0	0	0	0	1,500	1,500	1,500	21%
Economic Research Service	Cat.III - Senior Leaders to maintain contact through official channels and monitor communications, including monitoring of agency critical IT infrastructure systems to prevent security breaches and subsequent startup failures.	All activities cease.	0.5	285	0	0	9	0	0	0	9	3%
National Agricultural Statistics Service	Cat.II - To conduct data collection, Analysis, Processing and Publication of Agricultural Prices reports in support of mandatory FSA programs funded during the shutdown. Cat.III - Senior Leaders to maintain contact through official channels and monitor communications, including monitoring of agency critical IT infrastructure systems to prevent security breaches and subsequent startup failures.	NASS will suspend all program activity, including those funded through Census of Agriculture or Ag Estimates except where data is needed to administer a mandatory farm program.	0.5	817	0	0	185	0	0	0	185	23%
National Institute for Food and Agriculture	Cat.I - Staff to support programs with available carryover or mandatory funding. Cat.III - Senior Leaders to maintain contact through official channels and monitor communications. Community of exempted programs by OMB.	Programs not financed by available mandatory or carryover funding or exempted by OMB.	0.5	429	0	0	18	0	0	0	18	4%
Office of Chief Scientist	Cat.III - Senior Leaders to maintain contact through official channels and monitor communications.	All activities cease.	0.5	8	0	0	1	0	0	0	1	13%

UNITED STATES DEPARTMENT OF AGRICULTURE

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Agency	Marketing and Regulatory Programs:	Description of Activities to be Continued	Description of Activities to Cease				
			Shutdown Activities	On-Board Staff	First 5 Days	After 5 Days	First 5 Days
Animal and Plant Health Inspection Service	Cat.I - Trust Funds: Provide pre-lease and inspection of fruits and vegetables, and inspection of birds at quarantine facilities. User Fees: Conduct animal quarantine import/export activities; certain veterinary diagnostic activities; phytosanitary certificate activities and agricultural quarantine and inspection activities, including after business hours. Reimbursable agreements: Conduct certain animal and plant/health program activities, as well as research and methods development activities.	Certain animal health program activities that are limited or ceased include: disease prevention and detection activities; maintaining regulations; program standards, and guidelines that direct the various animal health activities; traceability activities. Certain plant health program activities that are limited or ceased include: pest detection and survey activities; scientific experiments; data analysis and gathering for scientific and technical purposes; administrative and business support services to laboratories and units, and technical working group activities.	0.5	8,611	3,309	0	1,353
.....	Cat. II - Conduct Plant Health program activities that include pre-departure inspections at ports in Hawaii and Puerto Rico and training and release of sterile insects in barrier zones that prevent the introduction and spread of agricultural pests and diseases. Conduct Animal Health program activities such as conducting livestock movement quarantines and tick treatments for cattle and deer along U.S.-Mexico border; continue emergency response programs; providing care for animals housed in laboratories and research facilities, and, securing facilities such as the National Veterinary Services Laboratories and the National Wildlife Research Center	Certain wildlife services activities that are limited or ceased include: pesticide registration; wildlife damage management operational activities; and invasive species management.	0.5			0	4,662
Agricultural Marketing Service	Cat.I - Voluntary and mandatory grading, classing and inspection services, oversight of Research and Promotion Boards, laboratory operations, plant variety protection certification, PCCA activities, warehouse examination user fee funded activities; Farm Bill funded activities, American Rescue Plan activities, Marketing Agreements and Orders (M&O), and commodity procurement for nutrition assistance programs.	Other services that are limited or ceased include: investigations and enforcement activities related to APHIS program laws and regulations; authorizing movement, import or field testing of regulated biotechnology articles; reviewing petitions for determination of non-regulated status; Animal Welfare Act program activities; Horse Protection Act program activities; international trade and regulatory capacity building activities; responding to Freedom of Information Act (FOIA) inquiries and preparing Administrative Records; policy development and rule making activities; communications and outreach activities; and business services such as human resources, financial management, information technology, and acquisition related work.	0.5	4,478	3,802	0	1
.....	Cat.II - Safety and Occupational Health Managers.	The following AMS programs are 100 percent funded with annual appropriated funds and will not be continued during a government shutdown: Market News; Country of Origin Labeling; Federal Seed; Federal-State Marketing Improvement Program; all compliance, standardization, methods development, and international monitoring activities conducted by the Federal Grain Inspection Service; International Food Procurement; National Organics Program; Packers and Stockyards Program; Pesticide Data Program; and Shell Egg Surveillance and Standardization.	0.5	173	0	0	0
Departmental Administratives:	Office of the Secretary.....	Cat.III - Manage and continue orderly shutdown and residual continuing operations.	All activities will cease.	0.5	52	0	0
.....	Office of Partnerships and Public Engagement.....	Cat.I - Continued activities include the Program staff for 2501 grants and other positions specifically mentioned in law (Framework & Coordinator, Youth Outreach Coordinator, Director, etc.).	All Higher Education Initiatives including 1890, 1994, and Hispanic Serving Institutes and Operations Team.	0.5	53	4	0
.....	Departmental Administration.....	Cat.I - Administrative leadership, providing contracting officer services for essential activities and personnel throughout the Department. Providing human resources policy support to the Secretary, general officers and agency managers.	General oversight of Agencies management efforts, efforts to support enhanced customer experience, correspondence management, active records assessments, continuity exercises, CFIUS reviews, National Security Adjudications, and management, coordination, the monitoring of the Department's fleet and real property reduction initiatives, as well as others.	0.5	381	6	0
Office of Homeland Security.....	Cat.V - Provide the Secretary with leadership/advise on national and homeland security issues and serve as the USDA focal point for coordination of emergency management actions.	Physical Security Assessments; Continuity Exercises; CFIUS Reviews; and National Security Adjudications	0.5	39	0	0
Office of the Chief Information Officer.....	Cat.I - Senior leadership to provide oversight for OCIO services to be continued.	Activities not related to continued operation of information systems necessary to support excepted activities (inspection and enforcement systems, cyber security, maintaining connectivity to the field, maintaining	0.5	1,666	258	0

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Agency	Description of Activities to be Continued	Estimated Days to Complete Shutdown Activities	Estimated Employment by Category					Total as % of Staff
			I	II	III	IV	V	
		Current On-Board Staff	5 Days	After 5 Days	5 Days	Total		
Office of Safety, Security and Protection.....	<u>Cat. I</u> - Security for the Headquarters Complex.	0.5	58	24	0	0	0	24 41%
Agriculture Buildings and Facilities.....	<u>Cat. I</u> - Maintenance of essential services for the Headquarters Complex.	0.5	63	22	0	0	0	22 35%
Hazardous Materials Management.....	<u>Cat. I</u> - Coordination of the Department's environmental response and restoration activities.	0.5	5	2	0	0	0	2 40%
Office of Communications.....	<u>Cat. III</u> - Manage and continue orderly shutdown and residual continuing operations.	0.5	48	0	0	6	0	6 13%
Office of the Chief Economist.....	<u>Cat. III</u> - Support for exempt and excepted activities and the World Agricultural Supply and Demand Estimates program.	0.5	71	0	0	2	0	2 3%
Office of Hearings and Appeals.....	No activities will continue.	0.5	82	0	0	0	0	0 0%
Office of Budget and Program Analysis.....	<u>Cat. III</u> - Support for exempt and excepted activities.	0.5	62	0	0	8	0	8 13%
Office of the Chief Financial Officer.....	<u>Cat. I</u> - Support NYC, IT, HR, Government Employee Service Division, Administrative Management Activities, and Support Services.	0.5	1,266	133	0	0	0	133 11%
Office of Civil Rights.....	No activities will continue.	0.5	1,68	0	0	3	0	3 2%
Office of Inspector General.....	<u>Cat. I</u> Audit programs funded by Infrastructure Investments and Jobs Act of 2021 <u>Cat. III</u> - Support for exempt and excepted activities. <u>Cat. V</u> - Law enforcement activities	0.5	429	67	14	0	6	9 21%
Office of the General Counsel.....	<u>Cat. I</u> - Utilize fee funded programs to continue required legal services. <u>Cat. III</u> - Provide required legal services for the Department and services in support of user fee funded programs. <u>Cat. V</u> - Continue to support court ordered litigations.	0.5	257	2	0	8	0	3 13 5%
Office of Ethics.....	<u>Cat. III</u> - Ethics advice and rulings on an "as needed" basis to ensure that officials can make critical decisions regarding the safety of human life and the protection of property in circumstances where a conflict of interest arises.	0.5	23	0	0	2	0	2 9%
USDA, Total		96,931	14,431	15	2,105	4	22,834	12,798 39,668 41%

NOTES:

a/- Includes non-Federal County employees, but excludes County Committee members.

b/- For FY 2024, FAS is including Personal Services Agreements (overseas), but they are not included in OPM counts as a full-time equivalent or onboard levels.

KEY:

Category I: Compensation Financed By a Resource Other Than Annual Appropriations

Category II: Necessary to Perform Activities Expressly Authorized By Law

Category III: Necessary to Perform Activities Necessary Implied By Law

Category IV: Necessary To the Discharge Of the President's Constitutional Duties and Powers

Category V: Necessary to Protect Life and Property